

SIKKIM



GOVERNMENT

GAZETTE

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No. 210

**GOVERNMENT OF SIKKIM
FINANCE, REVENUE AND EXPENDITURE DEPARTMENT
COMMERCIAL TAXES DIVISION
GANGTOK**

No. 04/2019 - State Tax (Rate)

Date: 29th March, 2019

NOTIFICATION

In exercise of the powers conferred by sub-section (1) of section 11 of the Sikkim Goods and Services Tax Act, 2017 (9 of 2017), the State Government, on being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, hereby makes the following further amendments in the notification of the Government of Sikkim, in the Department of Finance, Revenue & Expenditure, No.12/2017- State Tax (Rate), dated the 30th June, 2017, published in the Gazette of Sikkim, Extraordinary, vide number 291, dated the 6th July, 2017, namely:-

In the said notification, -

(i) in the opening paragraph, for the word, brackets and figures "sub-section (1) of section 11" the word, brackets and figures ", sub-section (3) and sub-section (4) of section 9, sub-section (1) of section 11, sub-section (5) of section 15 and section 148," shall be substituted;

(ii) in the Table, -

(a) after serial number 41 and the entries relating thereto, the following serial numbers and entries relating thereto shall be inserted, namely: -

(1)	(2)	(3)	(4)	(5)
"41A	Heading 9972	Service by way of transfer of development rights or FSI (including additional FSI) on or after 01.04.2019 for construction of residential apartments by a promoter in a project, intended for sale to a buyer, wholly or partly, except where the entire consideration has been	Nil	Provided that the promoter shall be liable to pay tax at the applicable rate, on reverse charge basis, on such proportion of value of development rights, or FSI (including additional FSI), or both, as is attributable to the residential apartments, which remain unsold on the date of issuance of completion certificate,

		<p>received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier.</p> <p>The amount of GST exemption available for construction of residential apartments in the project under this notification shall be calculated as under: (GST payable on TDR or FSI (including additional FSI) or both for construction of the project)*(carpet area of the residential apartments in the project / Total carpet area of the residential and commercial apartments in the project)</p>		<p>or first occupation of the project, as the case may be, as per the following formula; -</p> <p>(GST payable on TDR or FSI(including additional FSI) or both for construction of the residential apartments in the project but for the exemption contained herein) *(carpet area of the residential apartments in the project which remain un-booked or un-sold on the date of issuance of completion certificate or first occupation/ Total carpet area of the residential apartments in the project)</p> <p>Provided further that tax payable in terms of the first proviso hereinabove shall not exceed 0.5% of the value in case of affordable residential apartments and 2.5% of the value in case of residential apartments other than affordable residential apartments remaining unsold on the date of issuance of completion certificate or first occupation</p> <p>The liability to pay state tax on the said portion of the development rights or FSI, or both, calculated as above, shall arise on the date of completion or first occupation of the project, as the case may be, whichever is earlier.</p>
41B	Heading 9972	Upfront amount (called as premium, salami, cost, price, development charges or by any other name) payable in respect of service by way of granting of long term lease of thirty years, or more, on or after 01.04.2019, for construction of residential apartments by a promoter in a	Nil	<p>Provided that the promoter shall be liable to pay tax at the applicable rate, on reverse charge basis, on such proportion of upfront amount (called as premium, salami, cost, price, development charges or by any other name) paid for long term lease of land, as is attributable to the residential apartments, which remain</p>

		<p>project, intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier. The amount of GST exemption available for construction of residential apartments in the project under this notification shall be calculated as under: (GST payable on upfront amount (called as premium, salami, cost, price, development charges or by any other name) payable for long term lease of land for construction of the project) * (carpet area of the residential apartments in the project / Total carpet area of the residential and commercial apartments in the project).</p>	<p>unsold on the date of issuance of completion certificate, or first occupation of the project, as the case may be, as per the following formula; -</p> <p>(GST payable on upfront amount (called as premium, salami, cost, price, development charges or by any other name) payable for long term lease of land for construction of the project) but for the exemption contained herein) * (carpet area of the residential apartments in the project which remain un-booked or un-sold on the date of issuance of completion certificate or first occupation / Total carpet area of the residential apartments in the project)</p> <p>Provided further that tax payable in terms of the first proviso hereinabove shall not exceed 0.5% of the value in case of affordable residential apartments and 2.5% of the value in case of residential apartments other than affordable residential apartments remaining unsold on the date of issuance of completion certificate or first occupation.</p> <p>The liability to pay state tax on the said proportion of upfront amount (called as premium, salami, cost, price, development charges or by any other name) paid for long term lease of land, calculated as above, shall arise on the date of issue of completion certificate or first occupation of the project, as the case may be.</p>
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(iii) After paragraph 1, the following paragraphs shall be inserted, namely, -

"1A. Value of supply of service by way of transfer of development rights or FSI by a person to the builder/developer against consideration in the form of residential or commercial apartments shall be deemed to be equal to the value of similar apartments charged by the builder/developer from the independent buyers nearest to the date on which such development rights or FSI is transferred to the builder/developer.

1B. Value of portion of residential or commercial apartments remaining unsold on the date of issuance of completion certificate or first occupation, as the case may be, shall be deemed to be equal to the value of similar apartments charged by the builder/developer nearest to the date of issuance of completion certificate or first occupation, as the case may be."

(iv) in paragraph 3 relating to Explanation, after clause (iv), the following clause shall be inserted, namely: -

"(v) The term "apartment" shall have the same meaning as assigned to it in Real Estate (Regulation and Development) Act, 2016.

(vi) The term "affordable residential apartment" shall have the same meaning as assigned to it in the notification No. 11/2017-State Tax (Rate), dated 30th June, 2017.

(vii) The term "promoter" shall have the same meaning as assigned to it in Real Estate (Regulation and Development) Act, 2016.

(viii) The term "project" shall mean a real estate project or a residential real estate project.

(ix) the term "real estate project (REP)" shall have the same meaning as assigned to it in Real Estate (Regulation and Development) Act, 2016.

(x) The term "residential real estate project (RREP)" shall mean a REP in which the carpet area of the commercial apartments is not more than 15% of the total carpet area of all the apartments in the REP;

(xi) The term "carpet area" shall have the same meaning as assigned to it in Real Estate (Regulation and Development) Act, 2016.

(xii) an apartment booked on or before 31.03.2019 shall mean an apartment which meets all the following three conditions, namely- (a) part of supply of construction of which has time of supply on or before 31.03.2019 and (b) at least one instalment on or before 31.03.2019 and (c) an allotment letter or sale agreement or similar other document evidencing booking of the apartment has been issued on or before 31.03.2019."

2. This notification shall come into force on the 1st day of April, 2019.

Dipa Basnet
Secretary
Commercial Taxes Division
Finance, Revenue & Expenditure Deptt.

Note: -The principal notification No. 12/2017 - State Tax (Rate), dated the 30th June, 2017 last amended by notification No. 28/2018 - State Tax (Rate), dated the 31st December,